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EXAMINER

GARCIA, ERNESTO

ART UNIT PAPER NUMBER

3679

DATE MAILED: 11/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/773,197

Applicant(s)

WIESEHUEGEL ET AL.

Examiner

Ernesto Garcia

Art Unit

3679

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 August 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 January 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

Py

### **DETAILED ACTION**

In view of the appeal brief filed on 8/29/05, PROSECUTION IS HEREBY REOPENED. New grounds of rejections are set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing at the end of this Office action.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “two computer-readable repositories” (claim 11, line 4), “the offer description creator (claim 14, line 1), and “the offer list creator” (claim 15, line 1) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended”. If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled “Replacement Sheet” in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the examiner does not accept the changes, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: “repositories of information sets” recited in claim 1, line 5, and “computer-readable repositories of descriptive data items” recited in claim 11, line 4, “offer description creator” recited in claim 14, lines 2, and “offer list creator” recited in claim 15, line 2 lack proper antecedent basis in the specification.

The disclosure is objected to because the section “Summary of Invention” is out of order. The summary of the invention should be placed before the “Brief Description of the Drawings”. Appropriate correction is required.

### ***Claim Objections***

Claim 1, 4, 6, and 11 are objected to because of the following informalities:

regarding claim 1, --or more-- needs to be inserted after “two” in line 5 to be consistent with line 12, “all” in line 12 should be --the--, and --the-- needs to be inserted before “data” in line 12; and,

regarding claim 4, “said” in line 4 needs to be deleted. Appropriate correction is required;

regarding claim 6, the objects given in claim 1 above, also apply to claim 6;  
regarding claim 11, --the-- needs to be inserted before “descriptive” in line 9, the second occurrence of “to” in line 10 should be --of--, “said” in line 13 needs to be --a--, “said” in line 14 needs to be --a-- as a trader has not been previously recited. For purposes of examining the instant invention, the examiner has assumed these corrections have been made.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-10 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Regarding claims 1, 6, 11, at the time the invention was filed, nowhere does the specification or the drawings have support for “at least two repositories of information sets and data items indexed to product part numbers” recited in claim 1, lines 5-7, in claim 6, lines 6-7, and in claim 11, line 4. According to the original specification, page

11, lines 17-18, the Sales Preparation System "(SPS) contains a database of available product descriptive information indexed to part numbers". Therefore, no two repositories of information sets and data items are indexed to product part numbers.

Further, the original specification does not have support for "market identifiers" recited in claim 1, lines 6 and 8, in claim 6, lines 7, and in claim 11, line 6. The specification only has support for "a manufacturer identifier" (page 8, line 10), which is different to "market identifiers". Further, the specification lacks support for "dynamically linking the information sets and data items to the part numbers" recited in claim 1, line 7, and, in claim 6, line 8. According to the specification, page 8, lines 9-10, it states that "descriptive information is dynamically linked to the manufacturer identifier and the part number", which is contrary to claim 1, line 7 and claim 6, line 8. Further, according to the specification on page 12, lines 8-9, the specification states that the descriptive information items ... form an initial set of descriptive information, which is dynamically linked to the part number and the manufacturer identifier.

Further, the original specification does not have support for the step of dynamically linking the information set and data items to the part numbers is performed by executing a synchronization script or program. According to page 8, lines 9-15, synchronization is a secondary phase of the process and thus only one synchronization step is described.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 1-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 1 and 6, the metes and bound of the claim is unclear. In particular, the step of "providing at least two repositories" in claim 1, line 5, and in claim 6, line 6, makes unclear where the repositories are provided. Are they provided on paper and to whom are they provided? Further, it is unclear whether "repositories" are physical locations or something else that is physical. Further, the limitation "upon request by a trader" in claim 1, line 11, and in claim 6, line 12, makes unclear and uncertain whether the remainder of the claim produces a tangible and concrete result. Applicant should note that "if statements" are not concrete statements. In other words, the limitation "upon request" is alternatively indicating, "if requested by a trader". Further, the limitation "Sales Preparation System" in claim 1, line 11, or in claim 6, line 12, makes unclear whether this is something physical, a program, or a database?

Further, how does executing a synchronization script or program dynamically links the information sets and data items to the part numbers? According to one skilled



in the art, synchronizing information constitutes placing information of a newer database to an older database as a result both databases have the same information. Does dynamically linking constitute mere synchronization? Further, it is unclear what “includes the contents of said Sale Preparation System” recited in lines 13-14.

Regarding claims 2 and 3, it is unclear whether “the step of synchronization” in line 1 is that of claim 1, line 8, or that of claim 1, line 11.

Regarding claims 5 and 10, how does saving a copy of an information set statically links the copy to the most created data items? Further, where is the copy saved?

Regarding claim 11, the metes and bounds of the claim is unclear. This claim is directed to a system yet it is unclear whether the repositories, the dynamic links, the repository synchronizer, the offer promoter, and the user interface are physical components as in electronic components. If these are mere electronic databases, the databases need to be residing in a computer medium as in memory, or a record medium to exist. Further, the limitation “a user interface to an Interactive Offer System user interface” in line 14 is either grammatically incorrect, or the limitation is incomplete.

Regarding claim 12, how does adapting the repository synchronizer to replace and add links on a timed basis further limiting the system.

Regarding claim 13, how does further adapting the repository synchronizer to replace and add links responsive to a request for information from the repositories further limiting the system?

***Claim Rejections - 35 USC § 102***

Claims 1-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Perkowski, application publication, US2003/0009392 A1.

Regarding claim 1, Perkowski discloses a method comprising;

providing at least two repositories (two or more manufacturers have databases) of information sets and data items indexed to product part numbers (product description are indexed to UPN, UPC, or EAN; paragraph 023);

dynamically linking the information sets and the data items to the part numbers by executing a synchronization script or program at a predetermined time or responsive to a predetermined event (Para. 0031 and 0047-0049);

synchronizing contents of a Sales Preparation System with the repositories; (0049) the information sets, the data items, and the contents of the Sales Preparation System represent full information sets of most recently created data items, including the contents of said Sales Preparation System;

promoting the full information sets to an online auction system responsive to authorization of a trader (Para. 0054); and

presenting the full information sets to one or more online bidders via said online auction system (it is recognized that once the method of Perkowski is used on online auctions; the full information sets, i.e., the synchronized contents are presented to online bidders).

Regarding claims 2, 7, and 12, synchronizing is performed on a periodic basis (paragraph 085).

Regarding claims 3, 8, and 13, synchronizing is performed responsive to a request. Applicant should note that the breadth of this claim does not exclude a manager of a manufacturer or someone in charge of making sure the information is uploaded to the master database. Therefore, a manager can just request an employee to synchronize the information, which in other words means synchronization is performed responsive to a request by the manager.

Regarding claims 4, 9, and 14, the method further includes:

providing a list to a user. Note, the list is viewed as a spreadsheet with text or numerical information (see paragraphs 0047,0055, 0824 and 0101).

Regarding claims 5, 10 and 15, paragraphs 0093, 0101, and 0476 indicate that the data can be statically linked which inherently indicates saving a copy of an information set linked such that the saved copy is statically linked to the most recently created data items.

Regarding claim 6, given the system of Perkowski, Perkowski discloses a computer readable medium containing a program code having the steps set forth in claim 1.

Regarding claim 11, given the method in claim 1, Perkowski discloses a system comprising:

- at least two computer readable depositories of descriptive data items;
- dynamic links between descriptive data items and product part numbers,
- a repository synchronizer (the RDBMS; Para. 0047);
- an offer promoter (CPIR; Para. 0057); and,
- a user interface (CPID GUI (graphical user interface); Para. 0057).

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-15 have been considered but are moot in view of the new ground(s) of rejection.

Applicant has argued that the term "linking" means to create or modify a "link". In response, it is unclear where in the claims does it mention linking encompasses creating or modifying a link. Nowhere in the claims does the language mention that a link preexists to render the link modified. Further, the claims only call for "dynamically linking" which in its broadest interpretation the UPC or UPN of a product links the information of the product when requested. Furthermore, doesn't Perkowski have the UPC or UPN linked to the product information and vice versa such that someone entering a UPC code or when someone clicks on a UPC code on a web page automatically gets the product description?

In respect to the system administrator or manager, this argument is out of scope as it is clear that the administrator or manager is concerned with inputting the data of the products into the database before it is automatically and continuously uploaded to the master database through the use of the RDBMS (Para. 0048).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ernesto Garcia whose telephone number is 571-272-7083. The examiner can normally be reached from 9:30-5:30. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached at 571-272-7087.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

EP.

E.G.

November 13, 2005



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